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GRAND JUNCTION CITY COUNCIL  
MONDAY, SEPTEMBER 19, 2016

PRE-MEETING (DINNER) 5:00 P.M. ADMINISTRATION CONFERENCE ROOM  
WORKSHOP, 5:30 P.M.  
CITY HALL AUDITORIUM  
250 N. 5<sup>TH</sup> STREET

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*To become the most livable community west of the Rockies by 2025*

1. **Discussion of the Structure and Operations of Municipal Court**  
[Supplemental Documents](#)
2. [Recommendations to City Council from the Vagrancy Committee](#)
3. Next Workshop Topics
4. Committee and Board Reports
5. Other Business



**Grand Junction City Council  
Workshop Session**

**Item #1**

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**Meeting Date:** September 19, 2016

**Requested by:** Greg Caton,  
City Manager

**Submitted By:** Tim Moore  
Deputy City Manager

**Department:** Administration

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**Information**

**SUBJECT:**

Discussion of the structure and operations of the Municipal Court.

**EXECUTIVE SUMMARY:**

Over the past several years, City staff and the Municipal Judge have been discussing roles, responsibilities and duties of the staff associated with the operation and administration of the Court. During these discussions, the Judge asked for a number of things including physical changes to the Judge/Clerk office area and changes to how the Court operates.

**BACKGROUND OR DETAILED INFORMATION:**

As a result of the Judges requests the following changes have been implemented;

1. Deployment of contracted security services for screening of persons admitted to the hearing room and for in-session security;
2. Installation of a glass window at the Clerks Counter;
3. Legal staff no longer accessing the area behind the glass window;
4. Placement of a computer on the Judges bench;
5. Consideration of a new part-time Court Clerk to be supervised by the Judge and correspondingly developed of a job description for the new part time position and;
6. Bifurcated budget in the Court giving Municipal Judge authority over the Judicial portion.

In the interest of good governance and fully utilizing the authority of Home Rule local control, the staff has drafted the attached ordinance that describes the functions of the Municipal Court and defines the relationship between the other branches of the City government and the Court.

In researching other home rule municipalities with a population range of 35,000 to 150,000 we found that all of them except Grand Junction have adopted an ordinance to define the roles of the Court and memorialize how the Court is to operate in the future. Additionally, in most municipalities the City Manager appoints the court clerk/administrator and is responsible for the supervision of the clerk/administrator.

The attached ordinance provides for a formal process to appoint Municipal Court judges, defines the duties of the judge and the Court Administrator and establishes a violations bureau that provides clarification for violations like traffic infractions.

**FISCAL IMPACT:**

To date approximately \$25,900 has been expended to accommodate the Judges requests including security improvements to the Clerk area, security staff on court days, and a computer. Additionally, the cost of the new part time Court Clerk requested by the Judge is estimated to be \$11,727 per year.

**SUGGESTED ACTION:**

To more specially define the roles and responsibilities, staff suggests adoption of an ordinance relating to the operation of the Court.

**Attachments**

- ATTACHMENT 1 – Memo Summarizing Research of Comparable City Court Structures
- ATTACHMENT 2 – Draft Organizational Chart Showing Proposed Staffing
- ATTACHMENT 3 – Proposed Ordinance

**Summary of Other City/Court Ordinance Data  
Presented at April 11, 2016 City Council Work Session**

Considering Colorado home rule municipalities with a population range of 35,000 to 150,000,<sup>1</sup> we found that all of them except Grand Junction have adopted an ordinance superseding<sup>2</sup> C.R.S. §13-10-101 *et seq* to govern municipal court operations.

A review of the municipal court ordinances of those cities reveals the following:

1. In most (9 of 16),<sup>3</sup> the City Manager appoints the court clerk/administrator (in Littleton, with the assent of the judge; in Northglenn with the approval of the judge, but as the City Manager deems necessary).
2. In most (10 of 16),<sup>4</sup> the City Manager is responsible for the supervision of the clerk/administrator. Of those 10, in one city (Greeley) the City Manager may consider the advice of the judge regarding the clerk's duties, but does not have to abide by it. In two of the 10 (Littleton and Northglenn), the judge can, in cooperation with the City Manager, assign some duties to the clerk.
3. In Longmont and Brighton, the municipal court ordinance does not specify who appoints or supervises the administrator/clerk, but the only administrative / operational duties the judge is given by ordinance in Loveland relate to the performance of and fees for wedding services; in Brighton, no such duties are given by the ordinance.
4. In Lakewood and Arvada, the judge appoints and supervises the court clerk/administrator. But concomitant with this increase in responsibility of the judge there is increased judicial oversight. In Lakewood, a judicial review commission is established, and the judge serves at the pleasure of the City Council, with no term established by ordinance. In Arvada, the City Council establishes a one-year contract with the judge, and can decline to renew for a subsequent term in its discretion, no cause required.
5. In two (Pueblo and Loveland), the judge serves *ex officio* as the court administrator/clerk, and in that *ex officio* role supervises other court personnel.

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<sup>1</sup> Those cities are, in order of smallest to largest population: Brighton, Northglenn, Littleton, Parker, Commerce City, Castle Rock, Loveland, Longmont, Greeley, Boulder, Centennial, Pueblo, Westminster, Arvada, Thornton and Lakewood (by 2014 census).

<sup>2</sup> To the extent authorized by law; some aspects of C.R.S. §13-10-101 *et seq* cannot be superseded. See C.R.S. §13-10-103.

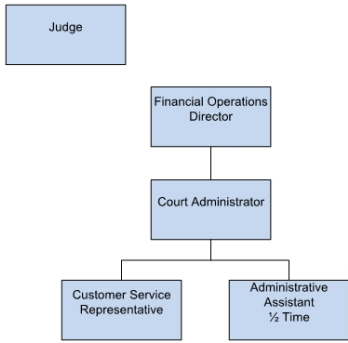
<sup>3</sup> Northglenn, Commerce City, Greeley, Littleton, Parker, Boulder, Centennial, Westminster and Thornton.

<sup>4</sup> Northglenn, Commerce City, Castle Rock, Greeley, Littleton, Parker, Boulder, Centennial, Westminster, and Thornton. In Castle Rock, the Judge appoints a clerk, but the clerk reports to/is supervised by the City Manager.

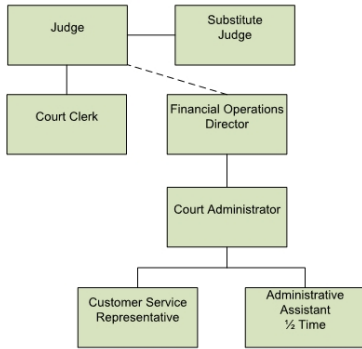


### Municipal Court Organizational Chart

#### Current



#### Proposed



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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO REPEAL CHAPTER 2.28 OF THE CITY OF GRAND JUNCTION  
CODE OF ORDINANCES AND TO REENACT CHAPTER 2.28 DESCRIBING THE  
FUNCTIONS OF THE MUNICIPAL COURT.**

**RECITALS:**

The City's Municipal Code ("GJMC") presently adopts by reference Colorado law concerning many of the functions and operations of the Municipal Court, the GJMC does not fully or adequately describe the functions of the Municipal Court and its relationship with the various departments of the City. This ordinance more particularly describes the functions of the Municipal Court and amends the GJMC to fulfill the direction of the City Council for the function and performance of the Court.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
GRAND JUNCTION THAT:**

Chapter 2.28 of the Grand Junction Code of Ordinances shall be repealed and reenacted. By and with the authority of Article VIII, Section 70 of the Charter of the City of Grand Junction this ordinance establishes, defines and describes the powers, duties, limitations, operations and functions of the Municipal Court. The chapter shall read as follows:

**Chapter 2.28 MUNICIPAL COURT**

**2.28.010. Created.**

A Municipal Court in and for the City is hereby created and established pursuant to the Charter and all lawful authority of the City of Grand Junction. This Chapter supersedes and replaces C.R.S. § 13-10-101, *et seq.* in its entirety, except as otherwise set forth in C.R.S. § 13-10-103.

**2.28.020. Jurisdiction.**

(a) The Municipal Court shall have original jurisdiction of all cases arising under the Charter, code of ordinances, resolutions, rules and regulations of the City, with full power to assess and collect penalties, punish violators, abate nuisances, enforce orders of the court by remedial or punitive contempt, compel the attendance of witnesses, and to otherwise effect the responsibilities prescribed by ordinance, Charter, administrative regulation or court rule.

(b) The territorial jurisdiction of the Municipal Court shall be coextensive with the corporate limits of the City, and, in addition thereto, the court shall have the original jurisdiction of all cases arising under the provisions of this code and the Charter which arise on any city-owned property outside of the City limits or arise on non-city-owned property outside the corporate limits of the City, over which the City has authority to control and regulate by virtue of any law, rule, regulation, contract, deed, easement agreement, right-of-way or other publicly-acquired interest.

**Commented [JS1]:** The City's Municipal Code ("GJMC") presently adopts by reference Colorado law concerning many of the functions and operations of the Municipal Court, the Grand Junction Municipal Code (GJMC) does not fully or adequately describe the functions of the Municipal Court and its relationship with the various departments of the City and/or affirm the independence of the judicial functions of the Court as being separate and apart yet co-equal with the executive and legislative functions.

In the interest of good governance and fully utilizing the authority of Home Rule/local control, the staff recommends that City Council adopt this ordinance, to principally provide procedural rules for the functioning of the Court, while maintaining the inherent independence of the judiciary.

Comments on certain aspects of the ordinance are included below; the general comment and essential purpose for the ordinance is that it provides a more particular description of the functions of the Municipal Court, definition of the relationship between the other branches of the City government and the Court and amendment of the GJMC to fulfill the direction of the City Council for the functional consideration of the Court; with adoption of this ordinance the City Council is not setting the policy of the Court.

Certain sections of the ordinance are presumed to be self-explanatory; if that is not the case and Councilmembers have questions about any section, whether noted here or not, staff will be pleased to provide further explanation.

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**2.28.030. Court of record.**

(a) For purposes of hearing cases involving persons accused of violating provisions of the Charter, the code or any other ordinance or regulation of the City, the Municipal Court is a qualified court of record and shall comply with the requirements of state law for courts of record. The Municipal Court shall furnish the record of proceedings to any party wishing to appeal from a judgment of the court, acting as a court of record, for transcription at such party's sole expense.

(b) There shall be a verbatim record made of the proceedings and evidence at trial in the Municipal Court by either electronic recording devices or stenographic means. The costs of preparation of transcripts of the record made in the Municipal Court shall be as provided in courts of record.

**2.28.040. Judges; vacancy; nomination committee.**

(a) The Municipal Court shall be presided over and its functions exercised by one or more judges, including a municipal judge and substitute judge(s) designated by the City Council, in accordance with the Charter, as amended from time to time.

(b) In the event of a vacancy in the office of any municipal judge of the Municipal Court, the City Council shall:

(1) If necessary to secure continuity in such office, appoint a/the substitute judge as acting municipal judge, to serve until the completion of the designation process for the successor to such office. Such acting municipal judge shall have and exercise all the authority of the municipal judge.

(2) Appoint an *ad hoc* judicial nominating committee consisting of the City Attorney, a lay person residing in the City and the Chief Judge of the 21st Judicial District or the chief judge's designee being a judge presiding in the district.

(3) The committee shall promulgate necessary rules governing its procedure, review the applications and references presented and conduct oral interviews of qualified applicants. The City Manager shall provide any municipal facilities and City staff reasonably required to achieve the duties of the committee.

(4) The committee shall submit to the City Council the names of three qualified applicants or, if there are fewer than three qualified applicants, the name of each qualified applicant, along with their applications and any written communications the committee may provide to assist the City Council in the selection process. The committee may designate an order of preference in the names submitted.

(5) The City Council shall review the materials submitted by the committee and conduct such additional procedures, including interviews with the applicants referred by the

**Commented [JS2]:** This section clarifies the process by which a record of court proceedings is kept which is important for effective administration of the Court and for perfecting of appeals.

**Commented [JS3]:** This section and section 050 provide a process for selection of judges in and for the Municipal Court. The City has not historically had a process for judicial appointments yet the appointment(s) of a Judge are (or may be viewed) under the Charter as being the same or similar to the other Council appointees.

Section 050 establishes a means to evaluate judicial performance/performance of the Court. Separation of powers compels that the Court is removed from day to day interaction with the City Council and the "feedback loop" described in the section will help Council evaluate the effectiveness and efficiency of the Court.

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93 committee, as the Council may deem appropriate and from the names of the applicants  
94 submitted by the committee, designate a municipal judge.

95  
96 (6) The City Council may, in the public interest, defer designation of the municipal judge  
97 and reopen the selection process as set forth in this subsection.

98  
99 **2.28.050. Appointment and removal of Municipal Court judges**

100  
101 (a) The City Council shall appoint the municipal judge who shall be licensed to practice  
102 law in the State of Colorado. The municipal judge shall serve for a term to be at the  
103 pleasure of the Council. The municipal judge and/or a substitute judge may be removed  
104 by the City Council at any time at the sole discretion of the Council. The municipal judge  
105 shall receive compensation as established by Council by ordinance.

106  
107 (b) The City Council may appoint one (1) or more substitute municipal judges who shall  
108 serve for a term to be at the pleasure of the Council and to act when the municipal judge is  
109 unable due to temporary absence, sickness. A substitute judge shall be paid based upon  
110 the number of court sessions served by the substitute judge at a rate established by  
111 Council.

112  
113 (c) Prior to taking office, a municipal judge and/or all substitute judge(s) shall execute an  
114 oath to well and faithfully perform the duties of municipal judge. The oath shall include but  
115 not be limited to a pledge to uphold the Constitution of the United States, the Constitution  
116 of the State of Colorado, the Charter of the City of Grand Junction and the laws and  
117 ordinances of the City.

118  
119 (d) The municipal judge and/or any substitute judge may be removed by a majority of the  
120 City Council at any time with or without cause.

121  
122 (e) Judicial performance commission.

123  
124 (1) There is created a judicial performance commission, established for the purpose  
125 of presenting evaluations and recommendations to Council in regard to the  
126 reappointment of Municipal Court judges.

127  
128 (2) The judicial performance commission shall be composed of no less than three  
129 voting members up to seven voting members. The membership of the judicial  
130 performance commission shall be made up as follows:

131  
132 (3) Members shall consist of at least one resident(s) of the City who is(are) not licensed  
133 attorneys, and at least two of the members shall be licensed attorneys engaged in the  
134 practice of law who are residents of the City or maintain or regularly practice law within  
135 the City. With respect to the members who are licensed attorneys, an effort shall be  
136 made to appoint one attorney whose employment relates to criminal prosecution, and  
137 one attorney whose employment relates to the defense of criminal cases.  
138



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139 (4) No member shall be related by blood or marriage within the third degree to any  
140 other member or any judge being reviewed.

141  
142 (5) The powers and duties of the judicial performance commission shall be as follows:  
143

144 (i) No later than the first Tuesday in September of each odd numbered year or as  
145 often as requested by Council, the judicial performance commission shall submit to  
146 each judge of the Municipal Court a confidential evaluation of the judge's official  
147 performance. At the same time, copies of these evaluations shall be submitted to  
148 the municipal judge.

149  
150 (ii) No later than 20 days following the submission of an evaluation in accordance  
151 with subsection (1) of this section, any judge who so desires may submit to the  
152 judicial performance commission a written response to the commission's evaluation  
153 of the judge, and such written response by the judge shall become a permanent  
154 attachment to the commission's evaluation of the judge.

155  
156 (iii) No later than the first Monday in November of the year of evaluation, the  
157 judicial performance commission shall certify to the Council copies of all of the  
158 commission's evaluation of the official performance of the affected judge. The  
159 judicial performance commission's evaluations shall be accompanied by a  
160 confidential recommendation regarding the appointment of the judge to another term  
161 on the bench of the Municipal Court. The recommendation shall be stated as  
162 "reappoint," "do not reappoint," or "no opinion" and shall be accompanied by an  
163 explanation.

164  
165 (iv) The evaluations and recommendations made by the judicial performance  
166 commission regarding the Municipal Court judges of the city shall be based solely  
167 upon the following criteria: integrity; knowledge and understanding of substantive,  
168 procedural, and evidentiary law; communication skills, preparation, attentiveness,  
169 and control over judicial proceedings; consistency and applicability of sentencing  
170 practices; docket management and prompt case disposition; administrative skills;  
171 punctuality; effectiveness in working with participants in the judicial process; and  
172 service to the legal profession and the public.

173  
174 (v) The judicial performance commission shall develop techniques for the  
175 evaluation of judges in accordance with the criteria listed in subsection (4) of this  
176 section. Such techniques shall include questionnaires or surveys of the attorneys  
177 who practice before the judge, including but not limited to court appointed counsel,  
178 the city attorney's office and the private defense attorneys, together with jurors, law  
179 enforcement officers, defendants, court personnel, and the municipal judge of the  
180 Municipal Court (except in regard to the evaluation of the municipal judge).  
181 Additional evaluation techniques may include, without being limited to,  
182 questionnaires and surveys of court personnel and others who have direct and  
183 continuing contact with Municipal Court judges, and consultations with state and

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184 district commissions on judicial performance regarding evaluation criteria,  
185 techniques, and sources.

186  
187 (f) Council retains the sole discretion to appoint, reappoint, and remove Municipal Court  
188 judges. The creation of the judicial performance commission shall not in any fashion  
189 abridge the authority possessed by the City Council. The commission serves as an advisory  
190 body to the City Council, and its evaluations shall be considered solely recommendations  
191 for the benefit of the City Council.

192  
193 **2.28.060 Authority; Duties of the municipal judge.**

194  
195 (a) The municipal judge shall have full power and authority to make and adopt local rules  
196 of procedure, in writing, for the Municipal Court, provided the rules are not inconsistent with  
197 those rules promulgated by the Colorado Supreme Court for Municipal Courts and any City  
198 ordinances. The municipal judge and any substitute judge while in the courtroom shall  
199 have all judicial powers relating to the operation of the courtroom, subject to any rules of  
200 procedure governing the operation and conduct of Municipal Courts promulgated by the  
201 Colorado Supreme Court and City ordinances.

202  
203 (b) The municipal judge and a substitute judge while in the courtroom shall retain the  
204 authority and responsibility for the promulgation and enforcement of all rules, procedures  
205 and proceedings pertaining to the Municipal Court arraignments, hearings, and trials, and  
206 other procedures regarding the operation of the courtroom while the court is in-session.

207  
208 (c) There shall be a clerk of the Municipal Court which shall be the municipal judge as ex-  
209 officio clerk unless Council has approved a separate position for the clerk of Municipal Court  
210 with compensation for the position. The municipal judge shall receive no additional  
211 compensation for acting as the clerk of Municipal Court. The municipal judge shall  
212 establish the duties of the clerk of the Municipal Court. The clerk of Municipal Court shall  
213 have the power to administer oaths and affirmations in all municipal matters in the court,  
214 and issue writs and notices, including subpoenas, summonses, and copies thereof in all  
215 cases coming within the jurisdiction of the Municipal Court. The clerk of Municipal Court  
216 shall be responsible for preparing all papers pertaining to the operations of the court.

217  
218 **2.28.070. Issuance of warrants.**

219  
220 (a) The municipal judge and any substitute judge shall be and are authorized to issue  
221 warrants for the inspection, search and nuisance abatement of premises or property by  
222 municipal or joint City/County officials or inspectors upon proper application. Nothing in this  
223 section shall be construed to require the issuance of a warrant for emergency inspections  
224 or in any other case where warrants are not required by law. The Municipal Court may  
225 assess costs to a defendant named in any process, writ or warrant issued by it and which  
226 process or warrant was served or executed as provided by law, including the costs of  
227 service, commitment or incarceration which are incurred by the City in connection with the  
228 service or execution of such process, writ or warrant.

229

**Commented [JS4]:** This section describes the authority of the Judge, including but not limited to the duties of the Judge's clerk.

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230 (b) Every warrant shall state the name of the defendant, the code section(s) or a brief  
231 description of the ordinance alleged to have been violated, the date and place of the alleged  
232 violation, and that the defendant is alleged to have committed the offense and the amount  
233 of bond, if any.

234

235 **2.28.080. Court Administrator and other staff.**

236

237 (a) The City Manager shall appoint a person to serve as an administrator of the Municipal  
238 Court, and any reference in this article to "Court Administrator" shall be deemed to apply to  
239 that person. The City Manager shall appoint such other staff of the Municipal Court as may  
240 be necessary to carry out efficiently the business of the court.

241

242 (b) The City Manager and his/her designee are authorized to administer and supervise  
243 the functioning and operations of the Court Administrator and all subordinate personnel of  
244 the Court Administrator's office.

245

246 (c) The Municipal Court Administrator or designee shall be present during each session  
247 of the Municipal Court. The Court Administrator shall have the following powers and duties  
248 including, but not limited to, the following:

249

250 (1) Have control, management and supervision over personnel and all matters  
251 pertaining to the business of the Municipal Court, and authority to promulgate rules and  
252 regulations pertaining to the administration of the Municipal Court.

253

254 (2) Have control, management and supervision over personnel and all matters  
255 pertaining to the administration of the violations bureau.

256

257 (3) Provide financial management and control of the Municipal Court.

258

259 (4) Keep such records and reports as specifically required by law or as deemed  
260 necessary and consult with the City Attorney regarding necessary policies or regulations  
261 to ensure their care, security, accuracy and release to the public.

262

263 (5) Record all fees, fines and penalties received and pay over such to the City  
264 Financial Director and shall make a monthly accounting of all such fees, fines and  
265 penalties collected.

266

267 (6) Prepare and keep a docket for each court session. Judgments for each case may  
268 be stored electronically and be managed by the Court Administrator in accordance with  
269 then best practices.

270

271 (7) Except when otherwise provided for by ordinance or established by Council, fees  
272 for services performed by the Municipal Court shall be promulgated by the Court  
273 Administrator. The Court Administrator shall advise Council of all fees set pursuant to  
274 this section.

275

**Commented [JS5]:** This section defines and describes the role of the Court Administrator and her/his reporting responsibilities and duties. The section describes with some specificity the role of the Court Administrator and that she/he, in support of the Court, performs certain accounting and business functions under the authority of the City Manager.

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276 (8) The Court Administrator is authorized to assign for collection to any agency or  
277 agencies authorized to do business in the State of Colorado, any fines, fees, costs and  
278 surcharges which may have been assessed by the Municipal Court and which are  
279 unpaid to the city and are delinquent.

280  
281 (9) Management of the Municipal Court facility including, but not limited to, security,  
282 temporary closures for public safety reasons, weather, loss of utilities, or any other  
283 emergency.

284  
285 (10) The Municipal Court Administrator shall keep a register of the actions in such court,  
286 including all fees and money collected and an index thereof.

287  
288 **2.28.090. Violations bureau.**

289  
290 (a) There is established a violations bureau for the handling of violations of applicable  
291 sections of this code, ordinances and regulations of the city or parts thereof, wherein  
292 Council has authorized that penalty assessments may be prescribed. Any person who  
293 has received any notice to appear in answer to a charge of violating any such applicable  
294 sections of this code, ordinances or regulations of the City may, within the time specified in  
295 the notice of such charge, answer at the violations bureau to the charges set forth in such  
296 notice by paying a penalty assessment, pleading guilty in writing to the charge, waiving a  
297 hearing in court and giving power of attorney to make such a plea and pay such fine in  
298 court. Acceptance of the prescribed penalty assessment by the Court Administrator shall  
299 be deemed to be complete satisfaction for the violation. No person shall be deprived of a  
300 full and impartial hearing in court or by a jury, if otherwise entitled to a jury under this chapter  
301 or other applicable law.

302  
303 (b) The Court Administrator shall establish the procedures by which a person may  
304 answer a charge of violation of a City ordinance by paying a penalty assessment,  
305 pleading guilty in writing, and waiving a hearing.

306  
307 (c) The court may enter an outstanding judgment warrant (OJW) against a person charged  
308 with a traffic infraction who fails to plead guilty to the offense in accordance with subsection  
309 (a) of this section and who fails to appear in the Municipal Court to answer such charge on  
310 the date and time listed on the complaint or summons and complaint, or on the date and  
311 time such person is scheduled to appear, or for failure to comply with court order.

312  
313 (d) The penalty assessment amount shall be that established by the Council by ordinance  
314 or otherwise, or if not set by the Council then as established by the municipal judge and the  
315 schedule is then posted in a conspicuous place at the violations bureau. Traffic offenses  
316 included in the schedule for the offenses for which a penalty assessment may be issued  
317 are traffic infractions and constitute a civil matter.

318  
319 (e) In any action in which the commission of a penalty assessment, including but not  
320 limited to traffic infraction(s), and a violation of this code are charged in one complaint or  
321 summons and complaint, all charges shall be returnable and the action shall be treated as

**Commented [JS6]:** This section is important because it clarifies when certain violations, typically traffic infractions, become Court matters and when and how they may be resolved without the Court. The section also provides that the penalties for infractions are set by Council rather than the Court. Generally, infractions may be resolved by payment and the processing of those payments, or if not paid the filing of them with the Court, needs to be well defined. Section 110 further describes procedures for/when infractions are heard in court.

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322 one proceeding governed by the rules, statutes and ordinances applicable to municipal  
323 violations which are not penalty assessments.

324  
325 (f) The fee for the OJW entered pursuant to subsection (c) shall be in an amount determined  
326 by the Court Administrator.

327  
328 (g) The court shall forward the record of such judgment entered in accordance with  
329 subsection (a), including points assessed, to the Colorado Division of Motor Vehicles,  
330 pursuant to C.R.S. §§ 42-2-127(6)(a), 42-4-1709, and 42-4-1710 as amended.

331  
332 **2.28.100. Initiation of prosecutions; summons and complaint.**

333  
334 (a) The initiation of prosecutions in the Municipal Court, including the issuance of a  
335 complaint or summons and complaint, shall be in accordance with the Colorado Municipal  
336 Court Rules of Procedure (Colorado Rules). Violations of this code for which imprisonment  
337 is not a possible penalty and that are not criminal shall follow the Colorado Rules in all such  
338 cases unless those rules are clearly inapplicable.

339  
340 (b) A complaint or any other action for the violation of any of the provisions of this code  
341 shall be brought in the name of "The City of Grand Junction by and on behalf of the People  
342 of the State of Colorado" as plaintiff against the person who is alleged to have violated the  
343 ordinance as defendant and shall be commenced in the manner provided by law.

344  
345 (c) A complaint must require the person named as the defendant in such summons and  
346 complaint to appear in Municipal Court at a date and time certain to answer the charges of  
347 the violation.

348  
349 (d) Any complaint or summons and complaint may be issued as provided in the Colorado  
350 Rules. The word "issued" shall be defined as preparation of the summons or summons and  
351 complaint by the City Attorney or any peace officer. For purposes of this code, the term  
352 "peace officer" shall include the employees and or agents of the City designated by the City  
353 Manager as peace officers empowered to initiate a prosecution. Those designated  
354 persons, however titled, shall have such enforcement powers without regard to the  
355 certification requirements of C.R.S. § 24-31-301, *et seq.* The designated persons are  
356 further authorized to issue and/or serve a summons and complaint for any violation of this  
357 code in any matter for which probable cause exists that the alleged violation has occurred  
358 by the individual being served.

359  
360 **2.28.110. Traffic infractions.**

361  
362 In any action where only traffic infraction(s) are alleged no jury trial is allowed and no  
363 attorney shall be appointed for the defendant. The City Attorney is not required to appear  
364 on behalf of the City. If the City Attorney does not appear, then the officer shall offer sworn  
365 testimony to the facts concerning the alleged infraction. The defendant may then offer  
366 sworn testimony and evidence and shall answer questions, if such testimony is offered, as  
367 may be asked by the court. If the testimony of additional witnesses is offered by either

**Commented [JS7]:** This section and section 120 establish the procedures for the filing of cases in Municipal Court. Creation of procedural rules are important to ensuring Due Process and fundamental fairness for parties appearing in court.

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368 side, the order of testimony and extent of questioning shall be within the discretion of the  
369 court. Upon the conclusion of such testimony and examination, the court may further  
370 examine or allow examination and rebuttal testimony and evidence as deemed appropriate.  
371 At the conclusion of all testimony and examination, the defendant or counsel shall be  
372 permitted to make a closing statement. The Colorado Rules of Evidence shall not apply in  
373 such actions. If all elements of a traffic infraction are proven beyond a reasonable doubt,  
374 the court shall find the defendant guilty and enter appropriate judgment. If any element of  
375 a traffic infraction is not proven beyond a reasonable doubt, the court shall dismiss the  
376 charge and enter appropriate judgment, provided, however, that the court may find the  
377 defendant guilty of a lesser included traffic infraction, if based on the evidence offered, and  
378 enter appropriate judgment. Appeal procedures shall be in accordance with Colorado  
379 Criminal Procedure Rule 37.

380

381 **2.28.120. Prosecution based upon complaint.**

382

383 In any prosecution for the violation of this code or a City ordinance based upon the  
384 complaint of any person other than a police officer or court personnel, if the complaining  
385 witness who signed and filed the complaint fails or refuses to testify at the time of trial or  
386 asks the court to dismiss the complaint on reasonable grounds or that it appears to the  
387 court that the complaint was baseless, at the discretion of the court, costs may be assessed  
388 against such complaining witness.

389

390 **2.28.130. Temporary closures; operation of Municipal Court; special sessions.**

391

392 (a) If, through any summons and complaint, court notice or any other legal process, it  
393 appears that an individual is required to appear in the Municipal Court on a holiday,  
394 weekend day, or other date on which the court is closed, such date shall be treated as  
395 requiring an appearance on the next date upon which the court is open.

396

397 (b) If the Municipal Court is temporarily closed by order of the Court Administrator for public  
398 safety reasons, weather, loss of utilities, or any other emergency, those persons who would  
399 have otherwise been required to appear in court during the time of the temporary closure  
400 shall nevertheless appear on the next date upon which the court is open.

401

402

**Commented [JS8]:** This section establishes the procedure in the event an erroneous appearance date is given and/or when the Court may be closed.

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403 **2.28.140. Court-appointed counsel.**

404  
405 (a) Any person charged before the Municipal Court who is financially unable to obtain  
406 legal counsel and who could be incarcerated if convicted of one or more of the violations  
407 with which charged may petition, in writing, to the court for court-appointed counsel. The  
408 City Attorney may, at any time during the prosecution, state in writing whether or not he or  
409 she will seek incarceration as part of the penalty upon conviction of an offense for which  
410 the defendant has been charged. If the City Attorney does not seek incarceration as part of  
411 such penalty, legal representation and supporting services need not thereafter be provided  
412 for the defendant at City expense, and no such defendant shall be incarcerated if found  
413 guilty of the charges.

414  
415 (b) Court-appointed defense counsel shall be compensated through funds made  
416 available by the City Council at the hourly rate established by the State judicial system for  
417 court-appointed counsel.

418  
419 (c) Court-appointed counsel shall only be appointed after petition by the defendant  
420 accompanied by a written sworn financial statement with the applicant attesting to the  
421 truthfulness of the information which must be sufficient to adequately advise the municipal  
422 judge and/or the substitute judge that the defendant is financially unable to obtain  
423 counsel. The municipal judge shall promulgate indigency standards in writing for those  
424 desiring court-appointed counsel. The municipal judge may delegate to the Court  
425 Administrator the administration of the appointment of counsel for indigents.

426  
427 (d) It shall be a misdemeanor for any person to give false information on an application  
428 for court appointed counsel, and upon conviction of a violation, shall be punished as  
429 provided in section [1.04.090](#) of this code.

430  
431 (e) Repayment: In any case where it is determined pursuant to this section that a defendant  
432 is able to repay all or part of the expense of court-appointed counsel, all or part of the  
433 expense may be assessed against the defendant. The action may be taken regardless of  
434 the resolution of the case before the court.

435  
436 **2.28.150. Prosecuting attorney.**

437  
438 (a) The City Attorney, and/or an attorney(s) appointed by the City Attorney, shall have the  
439 sole and exclusive responsibility of prosecuting all charges filed in the Municipal Court.

440  
441 (b) To facilitate and encourage diversion of defendants from the criminal justice system  
442 when diversion may prevent defendants from committing additional criminal acts, facilitate  
443 the defendant's ability to pay restitution to victims of crime, and reduce the number of cases  
444 in the Municipal Court the City Attorney's office may operate its own diversion program.

445  
446 (c) Pretrial diversion:  
447

**Commented [JS9]:** This section responds to certain aspects of recent Colorado law relating to the appointment of defense attorneys. Subsections c, d and e, requiring a sworn affidavit, indigency standards, a violation for false information and the opportunity for repayment all of which are prudent and reasonable measures relating to appointment of counsel.

**Commented [JS10]:** This section defines and describes the role of the prosecuting attorney and specifically provides for the City Attorney to use alternatives to traditional prosecution such as diversion.

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448 (1) In any case, either before or after charges are filed, the City Attorney may suspend  
449 prosecution of the offense for a period not to exceed one year.

450  
451 (2) The City Attorney may agree to diversion in any case in which there exists sufficient  
452 admissible evidence to support a conviction. In determining whether an individual is  
453 appropriate for diversion, the following shall be considered:

- 454  
455 (i) The nature of the crime charged and the circumstances surrounding it;  
456 (ii) Any special characteristics or circumstances of the defendant;  
457 (iii) Whether diversion is consistent with the defendant's rehabilitation and  
458 reintegration; and  
459 (iv) Whether the public interest will be best served by diverting the individual from  
460 prosecution.

461  
462 (3) Before entering into a pretrial diversion agreement, the City Attorney may require a  
463 defendant to provide information regarding prior criminal charges, education and work  
464 experience, family, residence in the community, and other information relating to the  
465 diversion program. The defendant shall not be denied the opportunity to consult with  
466 legal counsel before consenting to diversion.

467  
468 (4) Diversion agreements:

469  
470 (i) All pretrial diversions shall be governed by the terms of an individualized diversion  
471 agreement signed by the defendant, the defendant's attorney if the defendant is  
472 represented by an attorney, a parent or legal guardian of the defendant if the  
473 defendant is a juvenile, and the City Attorney.

474  
475 (ii) The diversion agreement shall include a written waiver of the right to a speedy  
476 trial for the period of the diversion plus the reasonable time for prosecution to be  
477 initiated once the City Attorney has determined the defendant is in default of the  
478 terms of the agreement. Upon consenting to a deferred prosecution as provided in  
479 this section, the defendant shall be deemed to waive his right to a speedy trial even  
480 if the agreement does not include a written waiver. All diversion agreements shall  
481 include a condition that the defendant not commit any criminal offense during the  
482 period of the agreement and any other conditions determined appropriate by the City  
483 Attorney and the defendant, and the defendant's parent or legal guardian of the  
484 defendant if the defendant is a juvenile. Diversion agreements may include  
485 provisions concerning payment of restitution and a diversion fee as set by City  
486 Council.

487  
488 (iii) The diversion agreement may include a statement of the facts the charge is  
489 based upon as agreed to by the defendant, the defendant's attorney if represented,  
490 and the defendant's parent or legal guardian if the defendant is a juvenile. The  
491 statement is admissible as impeachment evidence against the defendant in the  
492 criminal proceedings if the defendant fails to fulfill the terms of the diversion  
493 agreement and criminal proceedings are resumed.



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494  
495 (5) Upon the defendant's satisfactory completion of the terms of the diversion  
496 agreement, no further criminal proceedings on the original charges shall proceed.  
497

498 (6) If the defendant violates the conditions of the diversion agreement, the City Attorney  
499 shall provide written notice of the violation to the defendant. The City Attorney, in his or  
500 her sole discretion, may initiate revocation of a diversion agreement by the filing of a  
501 criminal complaint. The defendant may, within fourteen days after the first court  
502 appearance following such a filing, request a hearing to contest whether a violation  
503 occurred. The City Attorney has the burden by a preponderance of the evidence to show  
504 that a violation has in fact occurred. If the court finds a violation has occurred, or a  
505 hearing is not requested, the prosecution may continue. If the court finds the City  
506 Attorney has not proven a violation, the court shall dismiss the criminal case without  
507 prejudice and return the defendant to the City Attorney for supervision of the defendant  
508 until defendant successfully completes the terms of the agreement.  
509

510 (7) If a defendant is prosecuted following a violation of a diversion agreement, a factual  
511 statement included within the diversion agreement is admissible as impeachment  
512 evidence. Any other information concerning diversion, including participation in the  
513 diversion agreement, including an evaluation performed pursuant to the terms of a  
514 diversion agreement, or statements made to treatment providers during the diversion,  
515 shall not be admitted into evidence at trial for any purpose.  
516

517 (d) Plea discussions and plea agreements:  
518

519 (1) Where it appears that the effective administration of criminal justice will be  
520 served, the prosecuting attorney may engage in plea discussions for the purpose of  
521 reaching a plea agreement. The prosecuting attorney should engage in plea  
522 discussions or reach plea agreements with the defendant only through or in the  
523 presence of defense counsel, except where the defendant has refused or is not  
524 otherwise eligible for appointment of counsel and has not retained counsel, and in  
525 the presence of a parent or legal guardian if the defendant is a juvenile.  
526

527 (2) In plea agreements, the prosecuting attorney may agree to diversion or  
528 deferred sentencing. Pursuant to a plea agreement, the prosecuting attorney may  
529 agree to make or not to oppose favorable recommendations concerning the  
530 sentence to be imposed, may agree to dismiss a charge or not to prosecute other  
531 potential charges, and/or consent to deferred sentencing if the defendant enters a  
532 plea of guilty or no contest.  
533

534 (3) The trial judge shall not participate in plea negotiations.  
535

536 (4) When a plea of guilty or no contest is tendered or received as a result of a  
537 plea agreement, the trial judge should give the agreement due consideration, but,  
538 notwithstanding its existence, the trial judge should reach an independent decision

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539 on whether to accept charge or sentence concessions as contained in the plea  
540 agreement.

541  
542 **2.28.160. Sentencing.**

543  
544 (a) The court shall not exceed the fine or incarceration limitations established by  
545 ordinance. Any person convicted of violating a municipal ordinance may be fined and  
546 incarcerated in accordance with Section 1.04.090 of this code or as otherwise specified in  
547 the appropriate code section for each violation. Any other provision of the law to the  
548 contrary notwithstanding, the court may suspend the sentence or fine of any violator and  
549 place the defendant on probation for a period not to exceed one year.

550  
551 (b) The court is empowered to assess costs, as set forth in section 2.28.170 against any  
552 defendant who pleads guilty or nolo contendere or who enters into a plea agreement or  
553 who, after trial, is found guilty of an ordinance violation.

554  
555 (c) Notwithstanding any provision of law to the contrary, the court has the authority to  
556 order a child under eighteen years of age confined in a juvenile detention facility operated  
557 or contracted by the department of human services or a temporary holding facility operated  
558 by or under contract with the City for failure to comply with a lawful order of the court. Any  
559 confinement of a child for contempt of Municipal Court shall not exceed 48 hours.

560  
561 (d) Notwithstanding any other provision of law, a child, as defined in [section 19-1-103](#)  
562 [\(18\), C.R.S.](#), arrested for an alleged violation of this code, convicted of violating this code  
563 or probation conditions imposed by the court, or found in contempt of court in connection  
564 with a violation or alleged violation of this code shall not be confined in a jail, lockup, or  
565 other place used for the confinement of adult offenders but may be held in a juvenile  
566 detention facility operated by or under contract with the department of human services or a  
567 temporary holding facility operated by or under contract with the City that shall receive and  
568 provide care for such child. The court may impose penalties for violation of probation  
569 conditions imposed by such court or for contempt of court in connection with a violation or  
570 alleged violation of the code may confine a child pursuant to [section 19-2-508, C.R.S.](#), for  
571 up to 48 hours in a juvenile detention facility operated by or under contract with the  
572 department of human services.

573  
574 (e) Whenever the court imposes a fine for a violation of this code, if the person who  
575 committed the offense is unable to pay the fine or any costs at the time the court enters its  
576 order in the matter, or the defendant fails to pay any fine or costs imposed for the  
577 commission of such offense, in order to guarantee the payment of such fine or costs, the  
578 court may compel collection of the fine in the manner provided in [section 18-1.3-506, C.R.S.](#)

579  
580 (f) Pursuant to the federal act, as defined in [section 25-8-103 \(8\), C.R.S.](#), the court may  
581 provide such relief and impose such penalties as are required by such federal act and its  
582 implementing regulations for such programs.

583  
584 (g) Deferred sentencing:

**Commented [JS11]:** This section clarifies the sentencing authority of the Judge and most especially it clarifies 1) the sentencing of juvenile offenders with respect to the Colorado Children's Code and 2) the deferred sentencing process. (A deferred sentence is typically "conditional" in that a guilty or no contest plea will be withdrawn and a violation dismissed on satisfaction of certain conditions. Deferred sentencing has been widely and successfully used in Grand Junction Municipal Court for many years and subsection g specifically defines and authorizes the practice going forward.

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585  
586 (1) In any case in which the defendant has entered a plea of guilty, the court accepting  
587 the plea has the power, with the written consent of the defendant, the defendant's  
588 attorney of record, the defendant's parent or legal guardian if the defendant is a juvenile  
589 and the City Attorney, to continue the case for the purpose of entering judgment and  
590 sentence upon the plea of guilty for a period not to exceed one year for a misdemeanor  
591 or traffic offense. The period shall begin to run from the date that the court continues  
592 the case.

593  
594 (2) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence,  
595 the City Attorney, in the course of plea discussions is authorized to enter into a written  
596 stipulation, to be signed by the defendant, the defendant's attorney of record, the  
597 defendant's parent and/or legal guardian if the defendant is a juvenile and the City  
598 Attorney, under which the defendant is obligated to adhere to such stipulation. The  
599 court shall not modify the terms of the deferred sentence without written consent of the  
600 City Attorney.  
601

602 (3) The conditions imposed in the stipulation shall be similar in all respects to conditions  
603 permitted as part of probation. In addition, the stipulation may require the defendant to  
604 perform community or charitable work service projects or make donations thereto. Upon  
605 full compliance with such conditions by the defendant, the plea of guilty previously  
606 entered shall be withdrawn and the charge upon which the judgment and sentence of  
607 the court was deferred shall be dismissed with prejudice.  
608

609 (4) The stipulation shall specifically provide that, upon a breach by the defendant of any  
610 condition regulating the conduct of the defendant, the court shall enter judgment and  
611 impose sentence upon the guilty plea.  
612

613 (5) When, as a condition of the deferred sentence, the court orders the defendant to  
614 make restitution, evidence of failure to pay the restitution shall constitute prima facie  
615 evidence of a violation.  
616

617 (6) Whether a breach of condition has occurred shall be determined by the court without  
618 a jury upon application of the City Attorney and upon notice of hearing thereon of not  
619 less than seven days to the defendant. The burden of proof at the hearing shall be by  
620 a preponderance of the evidence, except when the condition violated is a new violation  
621 which shall be proven beyond a reasonable doubt. The procedural safeguards  
622 required in a revocation of probation hearing shall apply.  
623

624 (7) Application for entry of judgment and imposition of sentence may be made by the  
625 City Attorney at any time within the term of the deferred judgment or within thirty-five  
626 days thereafter. The burden of proof at the hearing shall be by a preponderance of the  
627 evidence. The determination of a breach shall be made by the court.  
628

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629 (8) When a defendant signs a stipulation by which it is provided that judgment and  
630 sentence shall be deferred for a time certain, he or she thereby waives all rights to a  
631 speedy trial

632  
633 (9) A warrant for the arrest of any defendant for breach of a condition of a deferred  
634 sentence may be issued by the court upon the verified complaint of any person,  
635 establishing to the satisfaction of the court probable cause to believe that a condition of  
636 the deferred sentence has been violated and that the arrest of the defendant is  
637 reasonably necessary.  
638

639 **2.28.170. Costs assessed and surcharges on certain fines.**

640  
641 (a) In any matter as to which the Municipal Court has jurisdiction, the court may assess  
642 costs as follows against any:

- 643  
644 (1) Defendant who is convicted of an offense.  
645  
646 (2) Defendant who fails to appear for a scheduled arraignment, hearing or trial.  
647  
648 (3) Defendant who is held in contempt of court.  
649  
650 (4) Properly subpoenaed witness whose failure to appear at trial necessitates a  
651 continuance of the trial or a dismissal of the charges.  
652  
653 (5) Defendant who accepts a deferred judgment.

654  
655 (b) The court shall be empowered to assess court costs, costs of prosecution, jury fees,  
656 witness fees, and any other costs reasonably associated with a matter. The Court  
657 Administrator shall also supervise the payment of the fees to the jurors and witnesses by  
658 the clerk of the Municipal Court. Such costs, fees, and surcharges may be set by City  
659 Council by resolution or by ordinance.  
660

661 (c) Where any person, association, or corporation is convicted of an offense, the court  
662 shall give judgment in favor of the City of Grand Junction and against the defendant and if  
663 the defendant is a juvenile against the juvenile's custodial parent for the amount of the costs  
664 of prosecution, the amount of the cost of care, and any fine imposed. Such judgments  
665 shall be enforceable in the same manner as are civil judgments.  
666

- 667 (d) The costs, fees, and surcharges assessed may include, but are not limited to:  
668  
669 (1) Any docket fee, surcharge or assessment established by standing order of the  
670 Court.  
671  
672 (2) All jury fees, including juror fees. if applicable.  
673  
674 (3) Any costs incurred of a law enforcement agency.

**Commented [JS12]:** The imposition of costs and what may be eligible for assessment of costs is presently not as clear as it could be; this section clarifies when and for what costs and surcharges may be assessed.

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- (4) Any fees of the court reporter for all or any part of a transcript necessarily obtained for use in the case.
  - (5) The actual costs paid to any expert witness for the City;
  - (6) The witness fees and mileage paid;
    - (i) For any person required to travel more than fifty miles from the person's place of residence to the place specified in the subpoena;
    - (ii) Actual lodging expenses incurred; and
    - (iii) Actual rental car, taxi, or other transportation costs incurred;
  - (7) If a person under eighteen years of age is required to appear, the amount that a parent or guardian of the person was paid for transportation and lodging expenses incurred while accompanying the person;
  - (8) Any fees for exemplification and copies of papers necessarily obtained for use in the case;
  - (9) Any fees for interpreters required during court appearances, depositions, or during hearings/trials;
  - (10) On proper motion of the prosecuting attorney and at the discretion of the court, any other reasonable and necessary costs incurred by the prosecuting attorney or the Grand Junction Police Department that are directly the result of the successful prosecution of the defendant including the costs resulting from the collection and analysis of any chemical test.
  - (11) Any costs incurred by a law enforcement agency in photocopying reports, developing film, and purchasing videotape as necessary for use in the case;
  - (12) Any costs of participation in a diversion program if the offender unsuccessfully participated in a diversion program prior to the conviction or adjudication.
  - (13) Where any person is sentenced to a term of imprisonment, the court shall order such person to make such payments toward the cost of care as are appropriate under the circumstances. "Cost of care" shall mean the cost to the department and/or City incurring the cost with the custody of an offender for providing room, board, clothing, medical care, and other normal living expenses for an offender confined to a jail or correctional facility, or any costs associated with maintaining an offender in a home detention program.

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720 (14) Cost of insurance. The City shall determine whether separately or by or through  
721 a separate agency that defendant shall be covered by insurance when ordered as  
722 required as part of sentencing by the court. With respect to any injuries which may occur  
723 to third persons, all participants in a diversion agreement or deferred sentencing  
724 agreement and order are declared to be volunteers and specifically are neither the  
725 agents nor employees of the City.

726  
727 (15) Surcharges established by Resolution or Ordinance of the City Council.

728  
729 **2.28.180. Jury trials.**

730  
731 (a) In all trials before the Municipal Court in cases arising under this code, trial shall be  
732 to the court, unless the defendant is entitled to a jury trial under the Constitution of the  
733 State or of the United States, general laws of the State, or the Charter or this code or  
734 ordinances of the City, in which case the defendant shall have a jury if, within 21 days  
735 after entry of a plea, the defendant files with the court a written jury demand and tenders  
736 to the court a jury fee of in an amount determined by resolution of the City Council, unless  
737 the fee is waived by the court because of the indigency of the defendant. A defendant  
738 who fails to file with the court the written jury demand, as provided in this section, waives  
739 the right to a jury trial. When a jury trial is granted, the jury shall consist of three jurors  
740 unless a greater number, not to exceed six, is requested by the defendant in the jury  
741 demand.

742  
743 (b) The jury commissioner of the Municipal Court shall be the Court Administrator. The  
744 Court Administrator may designate deputy jury commissioner(s) who shall have the same  
745 powers as the jury commissioner when the jury commissioner is absent.

746  
747 (c) The City Clerk and the City Clerk's staff shall give the jury commissioner access to all  
748 books, records and papers in their respective offices and shall render all assistance within  
749 their power to enable the jury commissioner to procure the names of all persons in the City  
750 qualified to serve as jurors.

751  
752 (d) Qualifications and exemptions of jurors shall be the same as provided in C.R.S. §§ 13-  
753 71-105 and 13-71-119 and as amended.

754  
755 (e) A jury summons shall be served by the jury commissioner and shall be either  
756 personally served to the usual place of abode or post office box of the prospective juror.  
757 Service is also valid if the juror named has signed a waiver of personal service. The jury  
758 summons shall be served at least five days before the day on which the jurors are required  
759 to appear; provided, however, that the judge of the Municipal Court may, in the judge's  
760 discretion, order the jury commissioner to certify a list to the Chief of Police for personal  
761 service to be made by a police officer or an officer of the City. The failure to return  
762 undelivered mail by the post office shall be prima facie evidence of service of the summons  
763 upon the juror named in the summons.

**Commented [JS13]:** Jury trials are infrequent in Municipal Court and accordingly this section provides a specific procedure and responsibilities for the process for summoning jurors.

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764  
765 (f) The Municipal Court has the power to cause a jury to be summoned by open venire  
766 as is provided by law.

767  
768 (g) Jurors shall be paid a sum per day for actual jury service and a sum for each day of  
769 service on the jury panel alone as determined by City Council by resolution.

770  
771 **2.28.190. Complicity. Legal accountability as principal.**

772  
773 (a) A person is legally accountable as a principal for the behavior of another constituting  
774 a violation of this code if, with intent to promote or facilitate the commission of such offense,  
775 that person aids, abets, advises, counsels or directs the other person in planning or  
776 committing the offense.

777  
778 (b) It shall be an affirmative defense to a charge against a defendant based on  
779 accountability through complicity if, prior to the commission of the violation, the defendant  
780 terminated effort to promote or facilitate its commission and either gave timely warning to  
781 law enforcement authorities or gave timely warning to the intended victim.

782  
783 **2.28.200. Attempt.**

784  
785 (a) A person may be charged and/or convicted with an attempted violation if, acting with  
786 the kind of culpability otherwise required for the commission of a violation under this code,  
787 that person engages in conduct constituting a substantial step toward the commission of  
788 the offense. A substantial step is any conduct, whether act, omission or possession, which  
789 is strongly corroborative of the firmness of the actor's purpose to complete the commission  
790 of the offense. Factual or legal impossibility of committing the offense is not a defense if  
791 the offense could have been committed, had the attendant circumstances been as the actor  
792 believed them to be, nor is it a defense that the crime attempted was actually perpetrated  
793 by the accused.

794  
795 (b) A person who engages in conduct intending to aid another to commit an offense  
796 commits criminal attempt if the conduct would establish complicity under [section 2.28.190](#)  
797 were the offense committed by the other person, even if the other is not guilty of committing  
798 or attempting the offense.

799  
800 (c) It is an affirmative defense to a charge under this section that the defendant abandoned  
801 effort to commit the crime or otherwise prevented its commission, under circumstances  
802 manifesting the complete and voluntary renunciation of criminal intent. Renunciation and  
803 abandonment are not voluntary and complete so as to be a defense to prosecution under  
804 this section if they are motivated in whole or in part by:

805  
806 (1) A belief that a circumstance exists which increases the probability of detection or  
807 apprehension of the defendant or another or which makes more difficult the  
808 consummation of the crime; or  
809

**Commented [JS14]:** This section and section 200 provide that complicity and attempt are offenses in Grand Junction. The sections are included here but may be better located in Chapter 9 of the GJMC.

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810 (2) A decision to postpone the crime until another time or to substitute another victim  
811 or another but similar objective.

812  
813 (d) A person found guilty of an attempted violation shall be punished upon conviction with  
814 the same penalties applicable to the principal offense.

815  
816 Introduced on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016 and  
817 order published in pamphlet form.

818  
819 Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2016 and ordered  
820 published on final passage and final passage in pamphlet form.  
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822

823  
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826

827

\_\_\_\_\_  
President of the Council

828  
829

830 ATTEST:

831  
832

833 \_\_\_\_\_  
834 Stephanie Tuin, City Clerk





**Grand Junction City Council  
Workshop Session**

**Item #2**

---

**Meeting Date:** September 19, 2016

**Requested by:** Greg Caton,  
City Manager  
John Camper  
Police Chief

**Submitted By:** Tim Moore  
Deputy City Manager

**Department:** Administration and  
Police Departments

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**Information**

**SUBJECT:**

Recommendations to City Council from the Vagrancy Committee.

**EXECUTIVE SUMMARY:**

The Vagrancy Committee has developed a series of recommendations through many months of study and discussion and is now prepared to share this work with the full City Council. Mayor Pro Tem Chazen along with Councilmembers McArthur and Boeschstein serve on this Council Committee and have been actively involved in developing this information.

**BACKGROUND OR DETAILED INFORMATION:**

The City of Grand Junction Vagrancy Committee was formed in 2013 as a means of allowing City Departments to better collaborate on their efforts to address issues of vagrancy and chronic homelessness. The Committee is made up of representatives from nearly all City Departments, under the leadership of City Councilmembers and the City Manager.

Throughout that period, the Committee has addressed not only the specific short-term concerns brought to its attention, but has also sought to identify long-term sustainable

solutions designed to lessen the impact of chronic homelessness on the individual, service providers, businesses, and citizens. The Committee has consulted with numerous outside entities on diverse topics such as Permanent Supportive Housing and Crime Prevention through Environmental Design, and when appropriate has also assigned work groups to study related topics such as Whitman Park redesign and other collaborative efforts.

Attachments to this report include a detailed report and recommendations of the Homeless & Vagrancy Committee, an Options List with estimated costs and implementation timetables scored in average rank (lower number indicates higher priority) and a Recommendations Chart that identifies the resources, tools and programs focused around the permanent supportive housing element.

**FISCAL IMPACT:**

Included in the Vagrancy Committee's Option List is an estimated cost for each of the recommendations. The fiscal impact will be dependent on the recommendations Council selects.

**SUGGESTED ACTION:**

The Committee is seeking input from City Council related to their recommendations and direction on developing a strategy consistent with the listed options.

**Attachments**

- ATTACHMENT 1 – Recommendations of the Homeless & Vagrancy Committee
- ATTACHMENT 2 – Vagrancy Committee Options and Recommendations List
- ATTACHMENT 3 – Recommendations Chart



Recommendations of the  
City of Grand Junction  
Homeless & Vagrancy Committee

August, 2016

## **Executive Summary**

The City of Grand Junction Vagrancy Committee was formed in 2013 as a means of allowing City Departments to better collaborate on their efforts to address issues of vagrancy and chronic homelessness. The Committee is made up of representatives from nearly all city departments, under the leadership of City Councilmembers and the City Manager.

Throughout that period, the committee has addressed not only the specific short-term concerns brought to its attention, but has also sought to identify long-term sustainable solutions designed to lessen the impact of chronic homelessness on the individual, service providers, businesses, and citizens. The committee has consulted with numerous outside entities on diverse topics such as Permanent Supportive Housing and Crime Prevention through Environmental Design, and when appropriate has also assigned work groups to study related topics such as Whitman Park redesign and other collaborative efforts.

The purpose of this document is to outline recommendations of the committee that have come about through many months of study and discussion. The recommendations are not necessarily unanimous to all committee members, and no one recommendation will provide a solution to the problem of chronic homelessness in our community. In some cases, the funding for certain initiatives is not readily available. Rather, the document is meant to memorialize the overall goals of the committee, and set forth a path designed to mitigate the many visible and costly effects of chronic homelessness.

## **Statement of Purpose**

The committee recognizes that some degree of chronic homelessness is inevitable in a City of our size, particularly for a City that features a river, an interstate, a railroad, a desirable mild climate, and is the only population center offering services within a 250-mile radius. The definition of 'success,' therefore, must be measured and reasonable.

The committee believes that we must balance the needs of the chronically homeless with the rights of our other citizens to live, work, and recreate in a clean and safe environment. We are in support of programs that attend to the needs and challenges specific to the chronically homeless, to include assistance with shelter, transportation, sustenance, and treatment for addictions and mental/physical health. We are opposed to programs that serve to enable disorderly behavior, or those that become a beacon to others who might travel to Grand Junction solely to obtain those services.

## **Legal Considerations/Enforcement**

In June of 2015 the United States Supreme Court articulated a new standard concerning the Constitutionality of laws regulating speech; the decision in the case of *Reed v. Town of Gilbert*

(AZ) caused virtually all panhandling laws, including the City of Grand Junction's Ordinance 4627, to become invalid.<sup>5</sup>

While panhandling and solicitation were key concerns motivating the adoption<sup>6</sup> of the law, it would be a disservice to the City Council and the time, effort and expense that was devoted to crafting of the Ordinance and the defense of it to narrowly interpret the *Browne* ruling to just that Ordinance, especially in light of the other complicated legal and social issues presented by persons living on the streets and the City's consistent effort to respond to those issues now and then.

While Judge Arguello's opinion is instructive on the specific legal issues concerning solicitation and panhandling, it is equally instructive on what the community can now expect law enforcement's reaction to be to the "street community" and the issues presented by those persons living on the streets post-*Reed*. In her opinion Judge Arguello noted that certain behavior (that solicitors may engage in when soliciting) could threaten public safety. The Judge aptly noted that:

*"A solicitor may engage in conduct that is intimidating, threatening, coercive, or obscene and that causes the person solicited to fear for his or her safety... at times threatening behavior may accompany panhandling, but the correct solution is not to outlaw panhandling. The focus must be on the threatening behavior."*

The truth articulated by Judge Arguello is also proper and instructive for responding to the increasing number of people living on the streets (or in other non-traditional ways) and the complex social and legal issues those lifestyles present. The best approach, and the approach recommended by this paper and endorsed by the City Council Homeless and Vagrancy Committee, paraphrasing Judge Arguello, is for the community and the Law Enforcement Agency(ies) and Law Enforcement Officers that serve the community, to recognize, acknowledge and agree that homelessness cannot be outlawed and instead to focus on the behavior of persons and not their mere presence on the streets, in the parks or other public places. Consistent with the court decisions mentioned above and the specific instruction from Judge Arguello that conduct (not status, appearance or presence) is determinative of threat.

State and local laws provide numerous means of responding to behavioral problems presented by the homeless (and any other) segment of the community's population. Those laws include:

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<sup>5</sup> In March of 2014 the American Civil Liberties Union (ACLU) challenged Ordinance 4627 in the case of *Browne et.al v. City*. The *Browne* decision was announced in October of 2015 and in light of *Reed*, the ACLU prevailed in its claims and Judge Arguello deemed many provisions of 4627 to be unconstitutional. *Reed, Thayer v. Worcester* (another case from the 2015 Supreme Court term concerning a panhandling ordinance in Worcester, Massachusetts) and *Browne* fundamentally changed the legal landscape in relation to the regulation of panhandling and solicitation.

<sup>6</sup> See the Recitals to Ordinances 4618 (a predecessor to Ordinance 4627) and 4627 for the predicate legislative history to the law

C.R.S. §18-9-111 - touching, following or directing obscene language or gesture at someone with the intent to harass or alarm;  
GJMC §9.04.030(b) - molesting pedestrians upon the streets or in other public places by following them on foot;  
C.R.S. §18-9-114 - stopping or forcibly hindering the operation of a vehicle;  
C.R.S. §18-9-107 - obstructing a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway;  
C.R.S. §18-9-106 and GJMC §9.04.040 - coarse or offensive utterances gestures or displays in a public place tending to incite imminent breach of the peace;  
C.R.S. §18-3-206 - placing or attempting to place a person in fear of imminent serious bodily injury by threat or physical action;  
C.R.S. §18-3-207 - demanding money under threat of harm;  
C.R.S. §18-3-201 - injuring, attempting to injure or threatening to injure someone.

### **Recommendations**

The committee offers the following recommendations. The order in which they are undertaken is yet to be determined, however Permanent Supportive Housing is the primary recommendation, and is considered the base upon which the other recommendations should be built.

#### Permanent Supportive Housing

The National Alliance to End Homelessness reported in 2015 there were 564,708 people homeless in the United States; 2 percent were considered chronically homeless. According to the U.S. Department of Housing and Urban Development “two-thirds [of those 83,000 chronically homeless individuals] were living on the street rather than the shelter, reflecting the high degree of vulnerability of this population.” These individuals who are experiencing chronic homelessness share a combination of physical health, substance abuse and mental health issues which hinder their abilities to navigate the bogged down social service system which assists in getting these people off the streets. While individual circumstances and conditions may be different, one solution that has shown positive results is the implementation of permanent supportive housing within communities.

The United States Interagency Council on Homelessness argues that “permanent supportive housing is an intervention for people who need housing assistance and supportive service to live with stability and independence in their communities.” Specifically, it focuses on combining both housing and then services for those who are suffering with physical health, mental health and substance abuse issues. Permanent supportive housing uses the framework established in the Housing First Model, which “...is centered on the belief that everyone can achieve stability in permanent housing directly from homelessness and that stable housing is the foundation for pursuing other health and social service goals” (Implementing Housing First in Permanent Supportive Housing). Permanent Supportive Housing models have been widely accepted throughout federal, state and local governments as a means to combat chronic homelessness.

There are cities across the United States that have been struggling to find a long-term sustainable solution to their growing epidemic of chronic homelessness; the City of Grand Junction has not been immune to this. For many years now, our local government and a variety of community partners have gradually developed targeted solutions to combat chronic homelessness. Although many practices have been implemented and proven successful, there is still a housing component that has not been implemented.

On March 1<sup>st</sup> & 2<sup>nd</sup>, 2016 the Grand Junction Housing Authority along with a host of community partners conducted a count of the homeless population. The survey tool used was the Vulnerability Index Service Prioritization Decision Assistance Tool (VI-SPDAT). This tool gathered an assortment of data, which was presented to the Grand Junction City Council in May 2016. In the Executive Summary provided by representatives from ORG Code, the consulting firm hired to conduct the survey highlighted recommendations for housing. Specifically, the firm recommended that 47% of those surveyed needed Permanent Supportive Housing, 49% needed Rapid Rehousing and 5% needed Housing Assistance. The data further showed that 80% of those surveyed had physical health issues, 33% suffered with Substance Abuse issues and 36% suffered with Mental Health issues.

After looking at ten hypotheses on the contribution of affordable housing to support positive health outcomes, the Center for Housing Policy says “overall, the research supports the critical link between stable, decent, and affordable housing and positive health outcomes” (Maqbool, Viveiros, and Ault 2015). Although this speaks to affordable housing, 80% of those chronic homeless individuals in our community would benefit from being housed in a Permanent Supportive Housing project.

Davidson et al. found that “... the consumer participation principles unique to Housing First are associated with positive housing and substance use outcomes among substance dependent, chronically homeless individuals” (14). Thirty-three percent of those surveyed in Grand Junction showed substance use which is widely known to be a problem amongst the homeless population in Grand Junction. It is clear that research supports that implementing Housing First in Permanent Supportive Housing has a positive impact on those who suffer with substance abuse issues.

Solutions for mental health have long been disputed at all levels of government for several decades. Tsemberis and Eisenberg conducted a research project in New York City in 2000; their results showed promising results related to keeping those with Psychiatric Disabilities housed. 36% of those surveyed in Grand Junction indicated they had mental health issues.

It is clear that Permanent Supportive Housing is a tool that assists communities with combating chronic homelessness. The implementation and support for Permanent Supportive Housing projects should be supported within Grand Junction.

#### References:

1. The 2015 Annual Homeless Assessment Report (AHAR) to Congress. The U.S. Department of Housing and Urban Development. November 2015. <<https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf>>
2. People Experiencing Chronic Homelessness. United States Interagency Council on Homelessness. <<https://www.usich.gov/goals/chronic>>
3. Implementing Housing First in Permanent Supportive Housing. United States Interagency Council on Homelessness. <[https://www.usich.gov/resources/uploads/asset\\_library/Implementing\\_Housing\\_First\\_in\\_Permanent\\_Supportive\\_Housing.pdf](https://www.usich.gov/resources/uploads/asset_library/Implementing_Housing_First_in_Permanent_Supportive_Housing.pdf)>
4. Maqbool, Nabihah. Viveiros, Janet. and Ault, Mindy. "The Impacts of Affordable Housing on Health: A research Summary." Center for Housing Policy. Spec. Insights. April 2015.
5. Davion, Claire. Neighbors, Charles. Hall, Gerod. Hogue, Aaron. Cho, Richard. Kutner, Bryan. Morgenstern, Jon. "Association of Housing First Implementation and Key Outcomes Among Homeless Persons with Problematic Substance Use." Psychiatric Services. (2014). Vol. 65, No. 11. 1318-1324.
6. Tsemberis, Sam. Eisenberg, Ronda. "Pathways to Housing: Supported Housing for Street-Dwelling Homeless Individuals with Psychiatric Disabilities". Psychiatric Services. (2000). Vol. 51. No. 4. 487-493.

#### Single Intake Point

Within the Ten Year Plan to End Homelessness (TYP) written by members of the Grand Valley Coalition for the Homeless (GVCH), the Homeless Outreach Team (now called the Community Resource Unit or CRU), advocated for a Resource Desk or a Single Intake Point for those needing services in the Grand Valley. Goals specified in the TYP included identifying a location for a Resource Desk (The Desk), compiling and updating a list of Resources to include providers, their services and contact information, and finally, recruiting and training volunteers to provide direction to those seeking services.

These three initial goals set forth in the TYP have been met. The Desk is located on the first floor of the Center for Independence (CFI - 740 Gunnison Avenue) and is being staffed by trained volunteers. Volunteers are trained and supervised by Grand Valley Peace & Justice (GVPJ). A Resource Guide has been compiled and is regularly updated. Additionally, volunteers may offer visitors a beverage, and then ask questions to determine the needs of the visitor and how providers could best assist them. Volunteers make referrals to services and offer available handouts or applications. Visitors may request assistance from volunteers with completing forms and applications, as well as assistance with job searches, completing on-line applications and creating resumes. Volunteers also update the Job/Rental Board and Resource/Event Board daily.

The Desk is an intake point to which any provider or public servant making contact with an individual needing assistance can be directed. GVPJ and CRU have identified some improvements that could make this service more accessible and effective.



1. Any visitor identifying as homeless should be asked to complete a Vulnerability Index Survey immediately so that their needs are fully understood and so this information can be shared with appropriate service providers.
2. Volunteers at The Desk have very limited access to phones, computers, faxes and printers. CFI has a computer lab that is available for limited use by volunteers and visitors to The Desk that can be used sometimes for seeking employment and on-line application completion. Currently, there is no phone access at The Desk nor is there a fax line that could be used for the purpose of faxing completed applications or releases of information to appropriate agencies. Phone access is essential to daily operations. Having a computer with a printer for volunteers at The Desk would make updating the Resource Guide easier and more frequent and researching information for visitors possible without volunteers having to leave The Desk unattended. Having a computer station available in the area of The Desk for visitors to use that volunteers could monitor is needed. Donated equipment would be welcomed and need not be new, just in good working condition.
3. Service Providers must take advantage of the opportunities The Desk offers them in disseminating applications and information to potential clients. Providers are welcome to host volunteer trainings on how to help visitors complete complex applications properly.
4. The Pocket Guide created by HOT and maintained by CRU should be updated to reflect changes in contact information (for The Desk and other agencies as well).

#### What we can do now...

- Welcome guests into the Center for Independence for service providers housed in building.
- Ask appropriate questions to determine the needs of individuals visiting the Resource Desk.
- Distribute valuable information concerning available services in the Grand Valley – give verbal referrals and also offer flyers, handouts and applications.
- Help individuals complete intake forms/applications for services.
- Help individuals access computer lab to execute job searches, complete online employment applications, and create resumes.
- Update physical job/rentals board and events board.
- Update Resource Guide regularly for internal/external agency use.

#### Future goals...

- Single Entry Intake Point for all providers
- Educate providers to utilize The Desk
- Lifeline telephone (911 phones)
- Office Equipment

- Update Pocket Guide

#### Ambassador Program

The City of Durango Business Improvement District (BID) has started a program this year known as the Ambassador Program. The Durango BID includes their downtown area, which is similar to that of Grand Junction's Main Street corridor. The Durango BID hired six part-time employees who act as a "mobile visitor's center." They act as a resource to tourists by providing information on the downtown area to include restaurants, lodging and area activities. At the same time, it is hoped that their presence counters the negative perception left by panhandlers or loiterers, and offers an official deterrent effect.

The Durango Police Department helped prepare the ambassadors by providing training to them on city and state violations that they may witness while out doing their jobs. Ambassadors were cautioned against getting directly involved with any violations and to simply be a good witness until police arrive. It is often difficult to prosecute cases in which tourists are witnesses, as they rarely are willing to return to the area to testify. That said, the ambassador's primary mission is to act as a resource to tourists while promoting the downtown area.

The Grand Junction BID has expressed an interest in forming such a program in our downtown region.

#### Camp Cleanup

As with many communities, homeless camps have been a health and safety issue in Grand Junction since the early 1900s. Initially the railroad brought homeless to the Grand Valley and Grand Junction, as it was a common way to traverse the country for those that otherwise couldn't afford it. Today Grand Junction is the largest city in an expansive area between Denver and Salt Lake City and is located along a major interstate which maintains the City of Grand Junction's status as a natural stopping place for homeless individuals.

In 2012 the GJPD Homeless Outreach Team began coordinating camp cleanups in Grand Junction. The initial cleanups were very large and included City Streets, City Parks, Mesa County Road and Bridge, Union Pacific Railroad and various private property owners both inside the city limits as well as the contiguous areas. In the initial years, hundreds of tons of trash were cleaned up on an annual basis. The early strategy was to identify the worst areas and conduct organized cleanups three or four times a year. After the initial cleanups, the Mesa County Alternative Sentencing Unit would perform the clean ups. In 2015, A.S.U. stopped doing camp cleanups due to safety concerns for the inmates, and in fact the A.S.U. is soon to be disbanded entirely. Near the end of 2015, the City of Grand Junction contracted with a local company to perform the cleanups on an as-needed basis.

Although this incurs a cost to the City of Grand Junction, it is worthwhile. The obvious health concerns with the camps, i.e. unsanitary conditions caused by large amounts of garbage, human and animal excrement and used hypodermic needles, cause a breeding ground of various diseases and infections. The camps tend to be breeding grounds for both serious and petty crimes as well. Everything from petty thefts, simple assaults, sex assaults and even the occasional murder has occurred in the camps. Many crimes go unreported as the residents in the camps largely victimize each other. Aside from the above concerns, the appearance of the camps is in general a detriment to the appearance of the city. As we've learned with the "broken window theory," camps that are left unaddressed grow, as do the problems associated with them.

Although we've adapted over the years to address various problems, one of the tougher aspects is dealing with private property owners. The area between Dike Road and the Colorado River is a good example. While much of the land is uninhabited and will remain that way because of the flood plain, there are large swaths of private property. Because the land surrounds river trails we've been able to receive permission from the property owners to enter their property and clean out the camps. While the cleanup is ultimately the property owner's responsibility, we've found it more effective to work in cooperation with them rather than to pursue enforcement actions through code violations. Having said that, there are also large privately owned areas, such as the large field north of I-70 B and 28 Road that is owned by a large investment company. In these situations, it has been very difficult, as the companies tend to not care about the condition of their property or the community that they are in. Enforcement is difficult as ownership changes frequently, so it is hard to make a case against an individual company.

Camp cleanup efforts are worth doing from both an appearance standpoint as well as reducing emergency service calls by eliminating places that tend to breed emergency calls when not addressed. The committee recommends that cleanup operations take place on a much more frequent basis; perhaps as often as twice a month.

#### Traveler's Aid Fund

Over the course of the last few years our Community Resource Unit, formerly known as the HOT team, has worked hand in hand with community partners to address homeless issues in Grand Junction. At times we have found ourselves faced with insufficient travel funds, preventing us from problem solving and helping individuals reach a destination other than Grand Junction. This not only poses a challenge for the stranded individuals but to our service providers as well, because it can add to our homeless population even if only temporarily. Sometimes these individuals have family in another state who would take them in, or there may be a job opportunity elsewhere. On other occasions we find ourselves working with homeless individuals who suffer from a substance abuse problem and would be willing to enter an out-of-state treatment program if we could find transportation for them. Currently we work with

organizations like Grand Valley Peace and Justice to cobble the necessary funds together, but the process is not efficient for anyone.

In an effort to increase our effectiveness and efficiency when dealing with these problems we recommend a “travelers aid” line item be added to our budget. The details of how and when our employees would access funds would require further discussion but the idea and principle of its creation seem fairly intuitive. This initiative could be formed as a two pronged project, focusing on general traveler’s aid and substance abuse treatment assistance. Recently Grand Valley Peace and Justice (GVPJ) applied for a grant from the Western Colorado Community Foundation for transportation funding specifically intended for substance abuse treatment. If they are successful in obtaining the grant we could consider this as the first prong of our plan. The second prong would be more general in nature and used to help people get out of town to be reunited with family or perhaps employment opportunities elsewhere. If GVPJ is not successful in their campaign to secure the grant, then our traveler’s aid fund could also be used for treatment programs like TLC in the Phoenix/Mesa Arizona area. In any case, it is a fairly common problem for us to encounter, and when we can assist someone in reaching their destination we all benefit. The intent of this fund is certainly not pay for a carefree traveler’s lifestyle but to help those in need who would benefit from moving through Grand Junction.

The Homeless & Vagrancy Committee believes that such a program could be a natural next step for the “Spare Change Doesn’t Make a Change” program of several years ago. It could be suggested as an alternative to those who might otherwise be inclined to donate to panhandlers, and as a result it could probably be largely funded through donations.

#### Work Program

The City of Albuquerque utilizes a work program that should be strongly considered for Grand Junction as well. Twice a week, a city van stops at common panhandling locations throughout the City, asking panhandlers if they wish to work a day job. Coordinated by their Public Works Department, they employ up to 10 individuals per day to work on projects such as pulling weeds and picking up litter. Workers are paid \$9 per hour, which is higher than the state’s \$7.50 minimum wage, and lunch is provided (the City of Grand Junction minimum wage is \$8.31 per hour, which matches that of the State of Colorado). Albuquerque does not purport to end homelessness or panhandling with this program, but does report that some workers have utilized their earnings to take a bus out of town.

The City of Albuquerque supports the program through a \$50,000 payment to a nonprofit organization, which in turn pays the driver’s salary and expenses. The City pays additional funds for the wages of the workers. They have also combined the program with a “There’s a Better Way” campaign designed to provide citizens with an alternative to giving money directly to panhandlers.

### Whitman Park Redesign

The City acquired Whitman Park in 1882 as one of the original four 'cornerstone' parks in the town's center. Developed amenities include a restroom, trails, lighting and irrigation. The site is surrounded on all four sides by one-way traffic, and three sides by State Highways, contributing to the isolation of the site. As a result, the primary use of the park at this time is loitering by chronically homeless individuals. Current challenges of this site include poor quality restrooms, lack of parking, and difficult access. Addressing these challenges would invite different user groups and families to the park. A stakeholders group made up of City staff, adjacent business owners, DDA, and Museum of Western Colorado has developed five design alternatives to change the overall appearance and use of the park. The five concepts, which have been developed into design charrettes, include:

- All Park
- Half park/Half Museum
- All Museum
- Museum Downtown
- Art/Cultural Gardens

Once a decision is made upon the direction of this park, the selected concept could be implemented in phases that include fencing, restrooms/shelter, parking, lighting, and other recreation amenities.

If a decision on redesign is not able to be made, we should strongly consider fencing-off the park and closing it during significant portions of the day.

### Crime Prevention Through Environmental Design

Crime Prevention Through Environmental Design (CPTED) is defined as the proper design, effective use, and maintenance of the environment, which can lead to a reduction in the incidence and fear of crime, and an improvement in the quality of life. CPTED "founder" C. Ray Jeffrey coined this term back in 1971, although Jane Jacobs promoted some of the concepts in the 1960's. Jeffrey felt there is a direct relationship between the physical environment, behavior of people, productive use of space, and use of simple crime prevention techniques. There are two parts to CPTED, the first dealing with physical changes and the second addressing social changes. The first part, CPTED-Physical is based on four principles to displace crime;

Natural Surveillance:

Utilizes proper placement of windows, lighting, and landscaping to increase the ability for others to observe criminal activity. In order for you to protect yourself from criminal activity, you must first see criminals approaching and or hiding. Not only do you want to see that, but you want your neighbors and passerby's to see as well. With an increased likelihood of being seen

criminals, are more inclined to move on to other locations. Mechanical methods such as cameras and mirrors are used to enhance natural surveillance methods.

#### Natural Access Control:

The use of doors, windows, shrubs, fences, and gates to deny or limit access to any or part of your business. By denying or limiting access, you create a perception that there is a higher risk of detection and thus a higher rate of apprehension. By using access control methods, visitors are guided into areas that you want them to be, making it easier to challenge people that stray from these areas. Natural methods can provide the control without appearing to be controlling movement. Organized methods can be used to enhance the natural and mechanical methods.

#### Territorial Reinforcement:

Utilizes sidewalks, landscaping, porches, and lighting to create a "Celebration of Ownership". Criminals tend to attack those who give the impression they do not care if they are victimized. Criminals will "justify" their actions based on what they think the victim is feeling. "They were asking for me to take their stereo." By taking pride in ownership, you are eliminating their "justification." By challenging the criminal behavior, you are creating a high risk of apprehension, which you want the criminal to feel.

#### Maintenance:

No matter how good a development is designed or redesigned, if a maintenance plan is not in place and adhered to, all the work put into designing or modifying the project will be lost very quickly. Ensuring the property is well maintained will drastically improve the effectiveness of the other three CPTED concepts. If the property is well maintained the normal users are more likely to take pride in its appearance and become involved in its success.

The second part, CPTED-Social is problem solving through behavior changing.

This works to change the behaviors of the normal users by providing social programs and support to help promote a sense of pride, belonging and ownership in the project undergoing the CPTED review. As with the first level principles, users feeling proud of their environment will work to maintain it rather than let it go to ruin. As a result, perceptions of outside users can also be influenced, changing their views of the normal users and their environment.

CPTED-Social programs should be included in any housing projects, whether rapid, temporary, transition or permanent.

CPTED-Physical analysis should be conducted for the entire greater Main Street area, focusing particularly on areas that have been traditionally attractive to the chronic homeless, such as breezeways, alleys, and benches. The Community Resource Unit has been preparing and is soon ready to present a CPTED study of the 500 block of Main Street. This study will

recommend environmental and structural changes to the buildings, sidewalks and breezeways to discourage criminal and inappropriate behavior in the area.

In discussing this issue and plan with staff there were several good ideas presented based upon the years of experience we have dealing with this population. Two of these ideas deserve particular mention:

Installation of surveillance cameras throughout the Downtown Shopping Park would serve several purposes; Cameras would allow for monitoring of downtown activity with fewer human resources. One officer could monitor activity in the entire area and notify other officers where they need to go; Secondly, cameras would provide evidence of who is committing crimes or causing problems; Third, and maybe most effective is our experience with Whitman Park and the cameras on the Police Department. Once the transients in the park realized there were cameras on the PD building they all moved to the west end of the park where it is more difficult for the cameras to see. It's very possible that with cameras on Main Street we may see a reduction in transient presence there and very probably a reduction in illegal/inappropriate behavior. The drawbacks of course are the cost and the predictable complaints of big brother surveillance, but it may be worth looking into once again.

#### Public / Business Education

Citizens within the City of Grand Junction have varying concerns when it comes to homeless subjects currently calling the city their home. Whatever end of the spectrum their opinions fall, it is fair to say that no one wants to see a homeless person lying unconscious in a park, on a bench, or on the sidewalk.

Bearing this in mind it is important to regularly educate both our citizens and the businesses within the city to understand their role regarding 'solving' the homeless problem in their city. Two examples of such education are:

Businesses, Liquor Stores:

There are laws governing the sale of alcoholic beverages, such as not serving to anyone under the age of 21. There are also laws governing others who can't be sold alcohol, such as someone who is visibly intoxicated, or a 'Habitual Drunkard'.

Visibly intoxicated is a condition that is easy to describe as it has defined signs of intoxication; blood shot eyes, slurred speech, unsteady gait and the odor of an alcoholic beverage on their breath to name a few.

'Habitual Drunkard' is a label placed on a subject by the courts, after satisfying specific criteria describing the subject's alcohol consumption and behavior while intoxicated.

Chronically homeless subjects are often found in a state of extreme intoxication and can often remain intoxicated 24 hours a day. This makes it very difficult to try and work on changing their behavior if they can easily reach this level of intoxication. Alcohol retail establishments serving intoxicated subjects are in violation of the liquor laws and could face the suspension or revocation of their liquor license. Alcohol retail establishments can also be held responsible for the conduct of their customers outside the business.

Educating businesses within the city as to their responsibility while serving alcoholic beverages, along with providing advice on best practices to avoid these issues, would help to reduce disorder caused due to intoxication. Calls for service are often caused by the behavior of intoxicated homeless subjects, draining the resources of Police, Fire and medical facilities.

Alcohol retail establishments that fail to take the advice of law enforcement regarding their responsibility to comply with state and local liquor laws can be dealt with at an enforcement level, through the courts and the civil licensing process.

Public, Pan Handling:

Pan handling is an ongoing issue within the city and has raised some safety concerns as the subjects can be aggressive to motorists. If intoxicated, their safety is a concern as they step out into the road, risking getting struck by a vehicle.

As with any form of business, if it's not productive it fails. The same applies here; panhandling would not exist if it weren't successful in generating revenue for the panhandler. Even the current signs asking people not to hand over money do not apparently deter either donors or the panhandlers, as they are often seen standing directly under the signs. On a side note, most of the popular panhandling locations are also in close proximity to a liquor store. These locations seem to be spreading throughout the city, beyond just the downtown area.

There are services within the city that provide for the homeless population and desperately need funds to help more people. A public service campaign to raise awareness of these services, even a one-stop way for people to donate to a central fund, would hopefully deter panhandling currently witnessed around the city. The Traveler's Aid Fund mentioned earlier could provide one such alternative outlet for donations.

From a CPTED perspective the city also has options to limit the accessibility to some locations commonly used for panhandling.

#### Champion/Coordinator Role

There are numerous agencies and organizations throughout the community offering services to homeless families and individuals, however there is a glaring need for assistance for the chronic homeless (vagrant) population. This problem is not isolated to Grand Junction, although there



are many factors in place here that contribute to this major community issue. Other communities have experienced success by implementing various programs, many of which are identified in these recommendations. We have heard from these communities that in order to succeed, there must be a 'Champion,' or someone who is willing to take the lead with the development and implementation of these programs.

For example, Utah's homeless approach has been quite successful, but their model relies heavily on 'Champions for the Homeless'. A champion would be the face of the project and overall leader. This individual would have high energy, and be a results-oriented collaborator and problem solver. They need to be willing to ask and answer the hard questions relating to vagrancy. Preferably, the champion would be someone respected across political spectrums and disciplines for their ability to engage and solve problems.

In addition to this leadership role, there will also be a tremendous amount of administrative work on a project such as this. The champion could complete this work, or it may be better to involve a project coordinator. There may be capacity within the current City organization for a coordinator, or it may warrant hiring an additional part time position. The program will be successful if there are individuals who have time and resources to commit to the program.

#### Sustained Main Street Patrol Plan

Although not new, the concerns and problems created by vagrancy in the downtown area has increased in both volume and intensity. We receive regular reports from citizens and visitors, often anecdotal and after the fact, regarding harassment, aggressive panhandling, and general misbehavior on the part of homeless individuals in the Downtown Core. Many of these concerns are expressed by business owners who come Downtown to open their stores and find trash, vomit, urine and fecal matter deposited on their doorsteps and areas surrounding their businesses. Adding to the concerns are the recent incidents and problems experienced on Denver's 16<sup>th</sup> Street Mall and the efforts of the Denver PD to address those problems. It's very conceivable that as Denver PD cracks down on "Urban Travelers" on the Mall, those very "Travelers" could make their way to Grand Junction and our Main Street Shopping Park.

Most understand that vagrancy issues are not an issue that can be solved by the Police Department alone through increased enforcement. That said, in late July 2016, we implemented a temporary increased officer presence, and a concerted effort to pay close attention to the behavior of those frequenting the area, which did have a positive impact on the feelings of safety and security in the Downtown area. The officers who participated were largely SRO's and CMU officers who were available due to school being out of session. Once school resumed in early August, the program had to be discontinued.

Briefly, the plan involved focusing on the Downtown area, defined as the area bordered on the north by Rood Avenue, the south by Colorado Avenue, the west by 1<sup>st</sup> Street and on the east by 7<sup>th</sup> Street. Officers worked from 1200 – 2200, Wednesday thru Saturday. In addition, two

Parks Officers were redirected to the Downtown area from 0800 – 1300 hours to provide a presence as the downtown merchants open for the business day.

Graveyard teams were tasked with conducting a sweep of the downtown area between 0400 and 0600 hours each day. The intent of the sweep was to contact and check the welfare of anyone sleeping or unconscious in the downtown area and to identify problem areas where there may be property damage or trash.

The officers assigned to work the project were given the following direction/mission:

- Provide an increased uniform presence in the Downtown area during the business day and evening.
- Strictly enforce the municipal ordinances of the City of Grand Junction and the laws of the State of Colorado.
- Make regular contacts and build relationships with business owners and visitors to the Downtown Park in order to educate them on their options for addressing concerns and the limitations we, the Police, have on this particular issue.
- Make regular contact, build relationships with, and encourage compliance from those frequently and regularly loitering in the public areas of the Shopping Park, paying particular attention to the breezeways, alcoves and carport areas with alley access.

To provide the same level of coverage without SRO's and the CMU team, the overtime cost would be approximately \$8,070/pay period. This would fund two officers, 40 hours/week, assigned to the downtown area. If continued into the fall/winter months, there would be an additional cost impact as we lose our seasonal Parks Patrol Officers who are an integral part of this plan.

In the alternative, the City should consider the establishment of a Business District Unit in the PD that would consist of five officers and a supervisor. The purpose of the Unit would be to handle the high level of CFS at the two Wal-Mart's, Kohl's, and Downtown. Additionally, some of the officers could be assigned long term to the Downtown area to maintain relationships with businesses, patrons and the transients who frequent the area. Ultimately this is an expensive and long term solution, but one that is worth considering in light of our growing problems in all of these business/commercial areas.

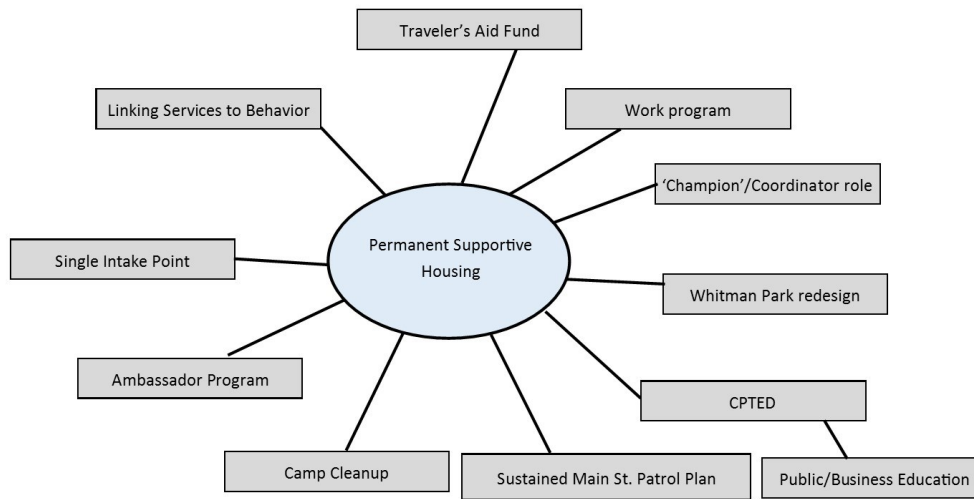
Attachment 2 – Vagrancy Committee Options List

HOMELESS & VAGRANCY COMMITTEE: OPTIONS LIST					
RECOMMENDATION	AVG. RANK	EST. COST	EST. TIMETABLE	RESPONSIBILITY or OVERSIGHT	COMMENTS
Permanent Supportive Housing	1.33	Variable, depending on project	Dependent on developers and available funding	Developers, with support and/or encouragement from Service Providers and City	Incurred by Developers, generally utilizing grants and/or State assistance; HUD reimbursements for monthly rentals.
Traveler's Aid Fund	1.44	\$3,000	Immediate need	Police Department	May be a good next-step for the "Spare Change Doesn't Make a Change" campaign; i.e., a good giving opportunity.
Camp Cleanup	1.55	\$52,000/yr	Immediate need	Police Department	Recommend camp cleanups twice per month, at \$2,000 per cleanup. Waiting longer than that allows refuse to build uncontrollably, thus increasing costs per cleanup.
CPTED	1.55	Staff time only for analysis phase. Implementation costs vary depending on recommendation.	Immediate need	Police Department, in association with the DDA	In process currently.

HOMELESS & VAGRANCY COMMITTEE: OPTIONS LIST					
RECOMMENDATION	AVG. RANK	EST. COST	EST. TIMETABLE	RESPONSIBILITY or OVERSIGHT	COMMENTS
Champion/Coordinator	1.55	\$26,000 annually for Coordinator for 2 years. (\$21,000 1/2 time salary + \$5,000 supplies)	For discussion. Other recommendations may be dependent on this one.	Community Member	Champion may or may not be a paid position.
Sustained Main St. Patrol Plan	1.77	\$59,531 for one full time Park Patrol Officer and one half time Park Patrol Officer; OR \$193,000 for two fulltime Police Officers	Implementation by late Spring	Police Department oversight; Possible DDA funding partnership	
Whitman Park Redesign	2.00	\$10,000 (small stage)- \$785,000 (full buildout of museum concept); Restrooms: \$150,000; Parking: \$250,000	Dependent on which design is chosen.	Parks & Recreation	
Public/Business Education	2.00	Nominal	Ongoing	Police Department Community Resources Unit, with assistance from other Departments and Service Providers.	

HOMELESS & VAGRANCY COMMITTEE: OPTIONS LIST					
RECOMMENDATION	AVG. RANK	EST. COST	EST. TIMETABLE	RESPONSIBILITY or OVERSIGHT	COMMENTS
Ambassador Program	2.22	\$25,000 per year, plus advertising costs of about \$1000/yr.	By May	DDA	Staffing from May-October, 7 days/wk, 8 hrs/day, 4 hr shifts.
Single Intake Point	2.33	Less than \$5000, or in-kind donations of computer equipment, etc.	Ongoing	Grand Valley Peace & Justice	
Work Program	2.55	\$74,880/yr (less if seasonal)	Late Spring	Public Works	Cost assumes 2x/week, 10 workers for 8 hours @ \$9/hr. Total cost assumes 52 weeks per year. Cost reduces if seasonal.

Attachment 3 – Recommendations Chart



SD

**RESOLUTION NO. 16-**

**A RESOLUTION DIRECTING COMPLIANCE WITH CHARTER, STATUTE, AND ORDINANCE AS THEY RELATE TO THE GRAND JUNCTION MUNICIPAL COURT**

**RECITALS:**

The City of Grand Junction has by Charter and Ordinance established a Municipal Court. The Charter provides the City Manager shall see to the faithful execution of the laws and ordinances of the State and City and that the City Council shall appoint a Judge of the Municipal Court. Charter provides the judge of the municipal court of the city shall have all the jurisdiction, powers, duties and limitations as provided for a municipal court by state law or by ordinance, except as otherwise provided by this Charter, and shall have exclusive original jurisdiction to hear, try and determine all charges of misdemeanor as declared by this Charter, and all causes arising under this Charter or any of the ordinances, regulations or other rules of the city for a violation thereof. The Grand Junction Municipal Code (GJMC) provides the Municipal Court shall have original jurisdiction of all cases arising under the Charter, the code of ordinances, resolutions, rules and regulations of the City, with full power to assess and collect penalties, punish violators, abate nuisances, enforce orders of the Court by remedial or punitive contempt, and to otherwise effect the responsibilities prescribed by ordinance, Charter, resolution, regulation or Court rule. GJMC provides the Municipal Court is a qualified Court of record, other than cases arising under GJMC Title 10 (traffic), and shall comply with requirements of State law for courts of record. GJMC adopts by reference Title 13, Article 10 of the Colorado Revised Statutes (C.R.S.). Section 13-10-108 C.R.S. provides that City Council shall establish the position of clerk of the municipal court, and shall provide for the salary of the clerk of the municipal court. Section 13-10-110 C.R.S. provides that City Council shall furnish the municipal court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies, and furniture for the proper conduct of the business of court. Section 13-10-112 C.R.S. provides that the municipal judge of any municipal court has all judicial powers relating to the operation of his court, and the municipal judge has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado supreme court. Section 13-1-114 C.R.S. provides that the court has power to compel obedience to its lawful judgments, orders, and process and to the lawful orders of its judge out of court in action or proceeding pending therein; and the power to control, in furtherance of justice, the conduct of its ministerial officers.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:**

The Municipal Court Judge shall exercise direct supervision over supervisory, professional, technical, and clerical staff of the court; Assume management responsibility consistent with the City Attorney, and Directors of all departments; and Govern the operations of the Municipal Court.

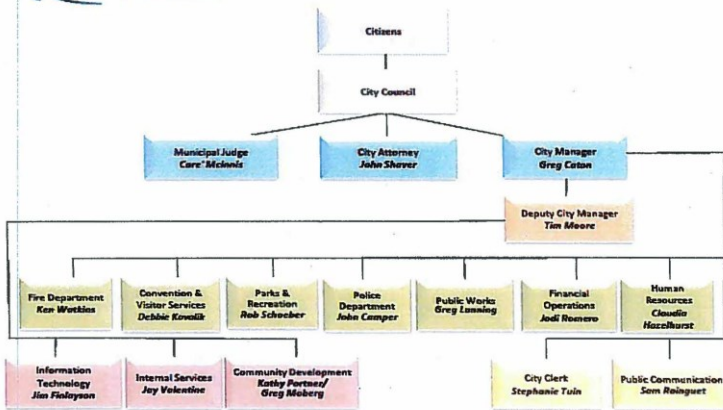
PASSED and ADOPTED this 21<sup>st</sup> day of September, 2016.

ATTEST:

\_\_\_\_\_  
President of the City Council

\_\_\_\_\_  
City Clerk

**Organizational Chart**





**CREATION, PURPOSE, AND DUTIES OF THE COURT**

**CHARTER**

52. **City Attorney Duties**...shall represent the city in all cases in which the city shall be a party

70. **Judge**...shall have all the jurisdiction, powers, duties and limitations as provided for a municipal court by state law or by ordinance, except as otherwise provided by this Charter, and shall have exclusive original jurisdiction to hear, try and determine charges of misdemeanor as declared by this Charter, and all causes arising under this Charter or any of the ordinances, regulations or other rules of the city for a violation thereof. There shall be no change of venue from said court.

59. **City Manager Duties**...see to the faithful execution of the laws and ordinances of the state and city

**ORDINANCE**

**2.28.020 Jurisdiction, powers and procedures.** (c) ...Charter, the code or any other ordinance, regulation or resolution of the City, other than those arising under GJMC Title 10, (traffic), the Municipal Court is a qualified court of record and shall comply with requirements of State law for courts of record.

**COUNCIL**

**COLORADO REVISED STATUTES**

**13-10-104. Municipal court created** - The municipal governing body of each city or town shall create a municipal court to hear and try all alleged violations of ordinance provisions of such city or town.

**13-10-108. Clerk of the municipal court** -The municipal governing body shall establish the position of clerk of the municipal court, except that the municipal judge shall serve as ex officio clerk if the business of the court is insufficient to warrant a separate full-time or part-time clerk.

**13-10-110. Court facilities and supplies** (1) The municipal governing body shall furnish the municipal court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies, and furniture for the proper conduct of the business of the court.

**\*\*The word, "court" throughout cited law, means the entire municipal court. It is not synonymous with "courtroom".**

**JUDGE**

**COLORADO CODE OF JUDICIAL CONDUCT**

**Canon 1** A Judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

**Rule 2.5(2)** A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

**COLORADO REVISED STATUTES**

**13-10-105. Municipal judge** (1) (a)... the municipal court shall be presided over by a municipal judge...

**13-10-108. Clerk of the municipal court** (2) The clerk of the municipal court shall be appointed by the presiding municipal judge and shall have such duties as are delegated to him by law, court rule, or the presiding municipal judge.

**13-10-112. Powers and procedures** (1) The municipal judge of any municipal court has all judicial powers relating to the operation of his court...

**13-1-114. Powers of court** (1) (c) To compel obedience to its lawful judgments, orders, and process and to the lawful orders of its judge out of court in action or proceeding pending therein; \*(Courtroom itself is entirely irrelevant) \*

(1)(d) To control, in furtherance of justice, the conduct of its ministerial officers.

**TREASURER (CHIEF FINANCIAL OFFICER)**

**13-10-115. Fines and costs**

All fines and costs collected or received by the municipal court shall be reported and paid monthly, or at such other intervals as may be provided by an ordinance of the municipality, to the treasurer, (Chief Financial Officer, in City of Grand Junction), of the municipality and deposited in the general fund of the municipality.

-Municipal Court and Treasurer (CFO), cannot be one and the same.

